

EXHIBIT 15
DATE 2/5/07
HB 306

Representative Rick Jore & Colleagues

Montana House of Representatives
PO Box 200400
Helena, MT 59620-0400

RE: H.B. 306 "â€"

Dear Representative Jore and Colleagues of the House:

I wish to express my strongest support for the passage of H.B. 306 to ensure the sustainability of state sovereignty and protections for citizens, businesses and fee-land property owners located within exterior boundaries of Indian reservations in the State of Montana.

It is my belief that whether Indian tribes are considered Treaty Tribes, or organized under the Indian Reorganization Act of 1934, in neither case did Congress ever intend that a day would arrive when Indian tribal governments would ever tax or govern settlers or their modern day descendants. I am the descendant of an early Montana homesteader. It is fundamental to my constitutional rights that as a U.S. citizen and citizen of the State of Montana, I should never ever be governed by a government that I do not elect.

I have the utmost respect and would never suggest that the State intrude upon a tribe's *inherent sovereignty* that has existed since time immemorial. This inherent sovereignty is the autonomous authority to self-govern without intrusion by other governments. Inherent sovereignty exists within tribal cultures, religious and fraternal organizations. Simply put, inherent sovereignty is the culture and tradition embraced by unique tribal governments, and a multitude of religions and other organizations.

Tribal *quasi-dependent sovereignty* delegated by the plenary power of Congress, however, is the intentionally limited sovereignty that is now systematically and systemically eroding the sovereignty of the State of Montana. Escalated by federal agency policies and the financial and political clout of national Indian lobbyists, this congressionally delegated "quasi-sovereignty" is increasingly intruding upon the constitutional and civil rights of Montana citizens who are not tribal members. H.B. 306 is the urgently needed thumb in the dike to preserve and hopefully restore the jurisdictional and regulatory authority of the State of Montana, on behalf of its non-tribal citizens and property owners residing in and near the State's seven Indian reservations.

In an article penned March 5, 2002 former Nevada Attorney General, Frankie Sue Del Papa, explains congressionally delegated tribal sovereignty as a shield by which tribes are free from intrusion by others, and not a sword by which to lash out and govern others. [*Distilling the Essence of Nevada v. Hicks: The State's Perspective*]

Support for H.B. 306 can be found in recent rulings of the U.S. Supreme Court. On behalf of a unanimous U.S. Supreme Court, Justice Antonin Scalia ruled in *Nevada v. Hicks*, 533 U.S. 353 (2001):

Our cases make clear that the Indians' right to make their own laws and be governed by them does not exclude all state regulatory authority on the reservation. **State sovereignty does not end at a reservation's border.** Though tribes are often referred to as "sovereign" entities, it was "long ago" that "the Court departed from Chief Justice Marshall's view that 'the laws of [a State] can have no force' within reservation boundaries. *Worcester v. Georgia*, 6 Pet. 515, 561 (1832)," *White Mountain Apache Tribe v. Bracker*, 448 U. S. 136, 141 (1980).⁴ "Ordinarily," it is now clear, "an Indian reservation is considered part of the territory of the State." U. S. Dept. of Interior, Federal Indian Law 510, and n. 1 (1958), citing *Utah & Northern R. Co. v. Fisher*, 116 U. S. 28 (1885); see also *Organized Village of Kake v. Egan*, 369 U. S. 60, 72 (1962). [Emphasis added].

In the same year, former Justice William H. Rehnquist expressed the rule on behalf of, once again, a unanimous court, in *Atkinson v. Shirley*, 532 U.S. 645 (2001) :

Irrespective of the percentage of non-Indian fee land within a reservation, **Montana's second exception grants Indian tribes nothing "beyond what is necessary to protect tribal self-government or to control internal relations."** *Strate*, 520 U. S., at 459 (quoting *Montana*, *supra*, at 564)

Indian tribes are "unique aggregations possessing attributes of sovereignty over both their members and their territory," **but their dependent status generally precludes extension of tribal civil authority beyond these limits.** *United States v. Mazurie*, 419 U. S. 544, 557 (1975). The Navajo Nation's imposition of a tax upon nonmembers on non-Indian fee land within the reservation is, therefore, presumptively invalid. [Emphasis added].

H. B. 306 is the urgently needed instrument to restore and preserve the first twenty rights guaranteed to Montana citizens in Article II, Declaration of Rights of the Montana State Constitution, including, for example, popular sovereignty, self-government, inalienable rights, individual dignity, freedom of religion, assembly speech, right to participation, right to know, right to privacy, searches and seizures, et al. When a tribal government asserts authority over a non-tribal Montana citizen, all of these State Constitutional rights vanish, and the State has failed its primary duty to protect its citizenry.

H.B. 306 reinforces the Oath of Office by which you have subscribed, that is contained within Article III, Section 3 of the State's Constitution and includes an undivided promise and commitment of fidelity to Montana citizens and Montana law:

"I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana,

and that I will discharge the duties of my office with fidelity (so help me God)." [Montana State Constitution, Art. III, Sec. 3, Emphasis added].

In my view there is no wiggle-room within the Oath of Office to permit a tribal government that I do not elect, and in which I may not participate, to ever govern me. I speak on behalf of the thousands of Montanans who have elected you to protect and serve all Montana citizens, and leave to the federal government any fiduciary or "trust" relationship with Indian tribes. Indian tribes are well tended by the federal government.

I simply ask the Montana State legislature to do the same for me and all Montanans, by passing H.B. 306, effective immediately, and I personally commend the courage and integrity of Representative Rick Jore for reinforcing the sovereignty of the State of Montana on behalf of folks like me.

Sincerely,

Jerome Stenberg